



January 28, 2014

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## SENATE BILL No. 357

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DIGEST OF SB 357 (Updated January 24, 2014 12:29 pm - DI 109)

**Citations Affected:** IC 15-15; IC 35-48.

**Synopsis:** Industrial hemp. Subject to federal approval, authorizes the state seed commissioner to license the cultivation and production of industrial hemp. Establishes requirements to obtain a license. Authorizes inspections by the state police and audits by the state seed commissioner. Provides that in addition to any other liability or penalty, the state seed commissioner may revoke or refuse to renew a license and may impose a civil penalty. Requires the state seed commissioner to apply for necessary permissions, waivers, or other form of legal status by the United States Drug Enforcement Agency or other appropriate federal agency that is necessary to implement the law. Makes a conforming amendment to the definition of "marijuana".

**Effective:** July 1, 2014.

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**Young R, Yoder, Steele, Stoops,  
Tallian, Waterman**

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January 14, 2014, read first time and referred to Committee on Agriculture and Natural Resources.  
January 27, 2014, amended, reported favorably — Do Pass.

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SB 357—LS 6251/DI 77





January 28, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## SENATE BILL No. 357

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 15-15-13 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2014]:

4 **Chapter 13. Industrial Hemp**

5 **Sec. 0.5. The state seed commissioner shall administer this**  
6 **chapter.**

7 **Sec. 1. Nothing in this chapter authorizes any person to violate**  
8 **any federal law or regulation.**

9 **Sec. 2. As used in this chapter, "agricultural hemp seed" means**  
10 **Cannabis sativa seed that meets any labeling, quality, and other**  
11 **standards set by the state seed commissioner and that is intended**  
12 **for sale or is sold to, or purchased by, licensed growers for**  
13 **planting.**

14 **Sec. 3. As used in this chapter, "crop" means any contiguous**  
15 **field of industrial hemp grown under a single license.**

16 **Sec. 4. As used in this chapter, "grower" means a:**

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(1) person, joint venture, or cooperative that produces industrial hemp for commercial purposes; or

(2) person, as part of an industrial hemp research program conducted by a state educational institution (as defined by IC 21-7-13-32).

**Sec. 5.** As used in this chapter, "handler" means a person, joint venture, or cooperative that receives industrial hemp for scientific research, or for processing into commodities, products, or agricultural hemp seed.

**Sec. 6.** As used in this chapter, "industrial hemp" means:

(1) all nonseed parts and varieties of the *Cannabis sativa* plant, whether growing or not, that contain a crop wide average tetrahydrocannabinol (THC) concentration that does not exceed the lesser of:

(A) three-tenths of one percent (0.3%) on a dry weight basis; or

(B) the percent based on a dry weight basis determined by the federal Controlled Substance Act (21 U.S.C. 801 et seq.); or

(2) any *Cannabis sativa* seed that is:

(A) part of a growing crop;

(B) retained by a grower for future planting; or

(C) for processing into, or use as, agricultural hemp seed.

The term does not include industrial hemp commodities or products.

**Sec. 7. (a)** Subject to section 15 of this chapter, the production of, possession of, scientific study of, and commerce in industrial hemp is authorized in Indiana. Industrial hemp is an agricultural product that is subject to regulation by the state seed commissioner.

(b) All growers and handlers must have an industrial hemp license issued by the state seed commissioner. Growers and handlers engaged in the production of agricultural hemp seed must also have an agricultural hemp seed production license.

(c) An application for an industrial hemp license or agricultural hemp seed production license must include the following:

(1) The name and address of the applicant.

(2) The name and address of the industrial hemp operation of the applicant.

(3) The global positioning system coordinates and legal description of the property used for the industrial hemp operation.



(4) If the industrial hemp license or agricultural hemp seed production license application is made by a grower, the acreage size of the field where the industrial hemp will be grown.

(5) A statement signed by the applicant, under penalty of perjury, that the person applying for the industrial hemp license or agricultural hemp seed production license has not been convicted of a drug related felony or misdemeanor in the previous ten (10) years.

(6) A written consent allowing the state police department to conduct a state or national criminal history background check.

(7) A written consent allowing the state police department, if a license is issued to the applicant, to enter the premises on which the industrial hemp is grown to conduct physical inspections of industrial hemp planted and grown by the applicant, and to ensure the plants meet the definition of industrial hemp as set forth in section 6 of this chapter. Not more than two (2) physical inspections may be conducted under this subdivision per year, unless a valid search warrant for an inspection has been issued by a court of competent jurisdiction.

(8) A nonrefundable application fee, which must include the amount necessary to conduct a state or national criminal history background check, in an amount determined by the state seed commissioner.

(9) Any other information required by the state seed commissioner.

**Sec. 8. (a) Each license application received under this chapter must be processed as follows:**

(1) Upon receipt of a license application, the state seed commissioner shall forward a copy of the application to the state police department. The state police department shall do the following:

(A) Perform a state or national criminal history background check of the applicant.

(B) Determine if the requirements under section 7(c)(5) of this chapter concerning prior criminal convictions have been met.

(C) Return the application to the state seed commissioner along with the state police department's determinations and a copy of the state or national criminal history



1 background check.

2 (2) The state seed commissioner shall review the license  
3 application returned from the state police department.

4 (b) If the state seed commissioner determines that all the  
5 requirements under this chapter have been met and that a license  
6 should be granted to the applicant, the state seed commissioner  
7 shall approve the application for issuance of a license.

8 (c) An industrial hemp license or agricultural hemp seed  
9 production license is valid for a one (1) year term unless revoked.  
10 An industrial hemp license or agricultural hemp seed production  
11 license may be renewed in accordance with rules adopted by the  
12 state seed commissioner and is nontransferable.

13 Sec. 9. (a) An agricultural hemp seed production license issued  
14 under this chapter authorizes a grower or handler to produce and  
15 handle agricultural hemp seed for sale to licensed industrial hemp  
16 growers and handlers. A seller of agricultural hemp seed shall  
17 ensure that the seed complies with any standards set by the state  
18 seed commissioner. The state seed commissioner shall make  
19 available to growers information that identifies sellers of  
20 agricultural hemp seed.

21 (b) Subject to rules adopted by the state seed commissioner, a  
22 grower may retain seed from each industrial hemp crop to ensure  
23 a sufficient supply of seed for that grower for the following year.  
24 A grower does not need an agricultural hemp seed production  
25 license in order to retain seed for future planting. Seed retained by  
26 a grower may not be sold or transferred and is not required to  
27 meet the state seed commissioner's agricultural hemp seed  
28 standards.

29 (c) All growers and handlers must keep records in accordance  
30 with rules adopted by the state seed commissioner. Upon at least  
31 three (3) days notice, the state seed commissioner may audit the  
32 required records during normal business hours. The state seed  
33 commissioner may conduct an audit for the purpose of ensuring  
34 compliance with:

35 (1) this chapter;

36 (2) rules adopted by the state seed commissioner; or

37 (3) industrial hemp license or agricultural hemp seed  
38 production license requirements, terms, and conditions.

39 (d) In addition to an audit conducted in accordance with  
40 subsection (c), the state seed commissioner may inspect any  
41 industrial hemp crop during the crop's growth phase and take a  
42 representative composite sample for field analysis. If a crop



contains an average tetrahydrocannabinol (THC) concentration exceeding the lesser of:

- (1) three-tenths of one percent (0.3%) on a dry weight basis;
  - or
  - (2) the percent based on a dry weight basis determined by the federal Controlled Substance Act (21 U.S.C. 801 et seq.);
- the state seed commissioner may detain, seize, or embargo the crop.

**Sec. 10.** The amount of any fees charged growers and handlers by the state seed commissioner under this chapter must be sufficient to cover the cost of the administration of this chapter, including the cost of conducting audits and testing.

**Sec. 11.** Only an industrial hemp licensee, the licensee's designee, or the licensee's agents may be permitted to transport industrial hemp off a production site. When transporting industrial hemp off the production site, the industrial hemp licensee, designee, or agent shall have in the licensee's, designee's, or agent's possession the licensing documents from the state seed commissioner evidencing that the industrial hemp is from certified seed produced by a licensed grower.

**Sec. 12.** The state seed commissioner is responsible for the following:

- (1) Monitoring the industrial hemp grown by any license holder.
- (2) Conducting random testing of the industrial hemp for compliance with tetrahydrocannabinol (THC) levels.
- (3) Establishing necessary testing criteria and protocols.
- (4) Establishing the minimum number of acres to be planted under each license issued under this chapter.
- (5) Assisting the development of industrial hemp production and commercial markets for hemp production within the state.
- (6) Assisting state educational institutions (as defined by IC 21-7-13-32) with agronomy research concerning industrial hemp.

**Sec. 13. (a)** In addition to any other liability or penalty provided by law, the state seed commissioner may revoke or refuse to issue or renew an industrial hemp license or an agricultural hemp seed production license and may impose a civil penalty for a violation of:

- (1) a license requirement;
- (2) license terms or conditions; or



(3) a rule relating to growing or handling industrial hemp.

(b) The state seed commissioner may not impose a civil penalty under this section that exceeds two thousand five hundred dollars (\$2,500).

(c) The state seed commissioner may revoke or refuse to issue or renew an industrial hemp license or an agricultural hemp seed production license for a violation of any rule of the state seed commissioner that pertains to agricultural operations or activities other than industrial hemp growing or handling.

Sec. 14. The state seed commissioner shall adopt rules under IC 4-22-2 to implement and administer this chapter.

Sec. 15. (a) Notwithstanding any other law, the state seed commissioner may not grant any license until the state seed commissioner has secured any necessary permissions, waivers, or other form of legal status by the United States Drug Enforcement Agency or other appropriate federal agency concerning industrial hemp.

(b) The state seed commissioner shall apply for any necessary permissions, waivers, or other forms of legal status by the United States Drug Enforcement Agency or other appropriate federal agency that is necessary to implement this chapter before January 1, 2015.

(c) The state seed commissioner may not implement a waiver under this section until the state seed commissioner files an affidavit with the governor attesting that the federal permission or waiver applied for under this section is in effect. The state seed commissioner shall file the affidavit under this subsection not later than five (5) days after the state seed commissioner is notified that the waiver is approved.

(d) If the state seed commissioner receives a waiver permission under this section from all the appropriate federal agencies and the governor receives the affidavit filed under subsection (c), the state seed commissioner shall implement this chapter, subject to the terms and conditions of the permission or waiver received, not more than sixty (60) days after the governor receives the affidavit.

SECTION 2. IC 35-48-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 19. (a) "Marijuana" means any part of the plant genus *Cannabis* whether growing or not; the seeds thereof; the resin extracted from any part of the plant, including hashish and hash oil; any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It

(b) The term does not include:





- 1       **(1)** the mature stalks of the plant;
- 2       **(2)** fiber produced from the stalks;
- 3       **(3)** oil or cake made from the seeds of the plant;
- 4       **(4)** any other compound, manufacture, salt, derivative, mixture,
- 5       or preparation of the mature stalks (except the resin extracted
- 6       therefrom); **or**
- 7       **(5)** the sterilized seed of the plant which is incapable of
- 8       germination; **or**
- 9       **(6) industrial hemp as defined by IC 15-15-13-6.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Natural Resources, to which was referred Senate Bill No. 357, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 1, delete "IC 15-11-6.5" and insert "IC 15-15-13".

Page 1, line 4, delete "6.5." and insert "**13.**".

Page 1, between lines 4 and 5, begin a new paragraph and insert:

**"Sec. 0.5. The state seed commissioner shall administer this chapter."**

Page 1, line 9, delete "department" and insert "**state seed commissioner**".

Page 2, line 26, delete "department." and insert "**state seed commissioner.**".

Page 2, line 28, delete "department." and insert "**state seed commissioner.**".

Page 3, line 22, delete "department." and insert "**state seed commissioner.**".

Page 3, line 23, delete "department." and insert "**state seed commissioner.**".

Page 3, line 26, delete "department" and insert "**state seed commissioner**".

Page 3, line 35, delete "department" and insert "**state seed commissioner**".

Page 3, line 38, delete "department" and insert "**state seed commissioner**".

Page 3, line 40, delete "department" and insert "**state seed commissioner**".

Page 3, line 42, delete "department" and insert "**state seed commissioner**".

Page 4, line 6, delete "department" and insert "**state seed commissioner**".

Page 4, line 12, delete "department." and insert "**state seed commissioner.**".

Page 4, line 12, delete "The department" and insert "**The state seed commissioner**".

Page 4, line 14, delete "department," and insert "**state seed commissioner,**".

Page 4, line 20, delete "department's" and insert "**state seed commissioner's**".



Page 4, line 22, delete "department." and insert **"state seed commissioner."**

Page 4, line 23, delete "department" and insert **"state seed commissioner"**.

Page 4, line 24, delete "department" and insert **"state seed commissioner"**.

Page 4, line 27, delete "department;" and insert **"state seed commissioner;"**.

Page 4, line 31, delete "department" and insert **"state seed commissioner"**.

Page 4, line 39, delete "department" and insert **"state seed commissioner"**.

Page 4, line 41, delete "department" and insert **"state seed commissioner"**.

Page 5, line 7, delete "department" and insert **"state seed commissioner"**.

Page 5, line 10, delete "department" and insert **"state seed commissioner"**.

Page 5, line 25, delete "department" and insert **"state seed commissioner"**.

Page 5, line 31, delete "department" and insert **"state seed commissioner"**.

Page 5, line 33, delete "department" and insert **"state seed commissioner"**.

Page 5, line 35, delete "department" and insert **"state seed commissioner"**.

Page 5, line 38, delete "department" and insert **"state seed commissioner"**.

Page 5, line 40, delete "department" and insert **"state seed commissioner"**.

Page 5, line 41, delete "department" and insert **"state seed commissioner"**.

Page 6, line 3, delete "department" and insert **"state seed commissioner"**.

Page 6, line 7, delete "department" and insert **"state seed commissioner"**.

Page 6, line 8, delete "department" and insert **"state seed commissioner"**.

Page 6, line 10, delete "department" and insert **"state seed commissioner"**.

Page 6, line 12, delete "department" and insert **"state seed commissioner"**.



Page 6, line 13, delete "department" and insert "**state seed commissioner**".

Page 6, line 15, delete "department" and insert "**state seed commissioner**".

Page 6, line 34, delete "IC 15-11-6.5-6." and insert "**IC 15-15-13-6.**".

and when so amended that said bill do pass.

(Reference is to SB 357 as introduced.)

YODER, Chairperson

Committee Vote: Yeas 7, Nays 0.

